

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

AMERICAN ASSOCIATION OF
UNIVERSITY PROFESSORS, ET AL.,

Plaintiffs,

V.

MARCO RUBIO, in his official capacity
as Secretary of State, and the
DEPARTMENT OF STATE, ET AL.,

Defendants.

Civil Action No. 1:25-cv-10685-WGY

**DEFENDANTS' MOTION, IN LIGHT OF LAPSE OF APPROPRIATIONS, FOR STAY
OF DEADLINE TO RESPOND TO MOTION TO INTERVENE AND LETTERS
REQUESTING THAT CERTAIN DOCUMENTS BE UNSEALED**

The United States of America hereby moves for a stay of the current deadline for filing a response to a motion to intervene, and for filing any response to recently-filed letters requesting that certain documents in this case be unsealed. *See* Dkt. Nos. 264 (filed October 3); 266 (filed October 8); 267 (filed October 9). While the Court has noted that letters are disfavored, and the Federal Rules of Civil Procedure set no deadlines for responding to letters, this request serves to place these matters on the docket for ease of reference, including the possibility that the Court may set a deadline for party responses.

1. At the end of the day on September 30, 2025, the appropriations act that had been funding the Department of Justice expired and those appropriations to the Department lapsed. The same is true for the majority of Executive agencies. The Department does not know when such funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

3. Undersigned counsel for the Department of Justice therefore requests a stay of Defendants’ deadlines in this case, specifically Defendants’ October 17, 2025 deadline to respond to a motion to intervene, as well as any deadline the Court may set for Defendants to respond to recent letters filed requesting the unsealing of certain documents. As to the letters, there is not a current due date for responding to them, but Defendants wish to preserve the opportunity to file a response.

4. If this motion for a stay is granted, undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department. The Government requests that, at

that point, the time for filing Defendants' responses be extended commensurate with the duration of the lapse in appropriations, including three additional working days – i.e., each deadline would be extended by the total number of days of the lapse in appropriations plus three.

5. On October 9, 2025, Defendants' counsel notified Plaintiffs' counsel by email of this stay motion. On October 10, Plaintiffs' counsel indicated that Plaintiffs have no objection to staying the deadline for responding to the motion to intervene (Dkt. No. 264) but they object to staying the time to respond to the letters (Dkt. Nos. 266, 267).

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the Government hereby moves for a stay of Defendants' October 17 deadline for filing a response to Dkt. No. 264 and that any deadline for responding to Dkt. Nos. 266-67, if set by this Court, be no less than three days after Department of Justice attorneys are permitted to resume their usual civil litigation functions.

Respectfully Submitted,

BRETT A. SHUMATE
Assistant Attorney General

WILLIAM G. KANELIS

ETHAN B. KANTER
*Chief, National Security Unit
Office of Immigration Litigation
P.O. Box 878, Ben Franklin Station
Washington, D.C. 20001*

Dated: October 10, 2025

Counsel for Defendants

L.R. 7.1(a)(2) CERTIFICATION

I, Ethan B. Kanter, hereby certify that Government counsel conferred with Plaintiffs' counsel regarding this motion on October 10, 2025 and reached partial agreement on this filing.

Date: October 10, 2025

By: /s/ Ethan B. Kanter
ETHAN B. KANTER
Chief, National Security Unit
Office of Immigration Litigation

CERTIFICATE OF SERVICE

I, Ethan B. Kanter, hereby certify that on this October 10, 2025, I served this document upon all registered parties via the ECF Notice of Electronic Filing (NEF) system.

Date: October 10, 2025

By: /s/ Ethan B. Kanter
ETHAN B. KANTER
Chief, National Security Unit
Office of Immigration Litigation